

CITY OF CLAYTON, OHIO

RESOLUTION NO. R - 12 - 22 – 80

A RESOLUTION DECLARING THE NECESSITY OF CONSTRUCTING STREET LIGHTING IMPROVEMENTS IN AND ASSESSING ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN WENGER VILLAGE, SECTION THREE, IN THE CITY OF CLAYTON, OHIO

WHEREAS, the Clayton City Council (hereinafter the "Council") has heretofore studied the need to construct street lighting improvements (the "Improvements") to service presently unserved areas in the City of Clayton that are in the process of current or planned development; and

WHEREAS, the proposed Wenger Village Section Three development project will be designed to serve the residences to be constructed and located throughout the project area; and

WHEREAS, this Council with and upon recommendation of staff has reviewed and hereby approves the general plans and the detailed plans and specifications required to proceed with the Improvements; and

WHEREAS, this Council has received a duly subscribed and regularly presented request/petition pursuant to Ohio Revised Code Section 727.06 requesting said improvement and including in said request/petition that the annual lighting charge cost of the street lighting improvement be assessed in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district; and

WHEREAS, Council is electing to assess the entire cost annual lighting charge cost of the street lighting improvement in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district"; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Clayton, Ohio:

1. That this Council hereby declares it necessary for the preservation and promotion of the public health and welfare, for the reasons set forth in the preambles hereof, to enter into an agreement with AES/Miami Valley Lighting LLC for full service lighting and to assess the accumulated annual charge estimated to be \$3,270.72 against the lots in Wenger Village, Section Three.
2. The lots or parcels of land to be assessed for the Wenger Village Section Three, Street Lighting Improvement Project are Lots 58 through 116, Wenger Village, Section Three, located in Section 29, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio and as further described in the attached Petition (**Exhibit A**) and Lot Map (**Exhibit B**).

3. The Wenger Village Section Three, Street Lighting Improvement Project is estimated to consist of installation and trenching of 8 (eight) light poles and fixtures at a developers cost of \$84,342 and total annual lighting charges for said 8 (eight) poles and fixtures of \$3,270.72 to be assessed as delineated herein with no portion of the improvement to be paid by the City.

4. The boundaries of the area to be assessed include all properties within Wenger Village, Section Three.

5. The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, charges and tentative assessments which are on file in the Clayton Government Center, 6996 Taywood Road, Englewood, Ohio, 45322 where they may be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

6. That the total annual lighting charge is estimated to be \$3,270.72 and shall be funded as follows:

- (a) The portion to be specially assessed to property owners on an annual basis totals \$3,270.72 - **\$55.44 per parcel**, as adjusted to reflect increases in future years, in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

7. The City does not intend to issue securities in anticipation of the levy of the assessments. The City does not intend to issue securities in anticipation of collection of the assessments.

8. That the estimate of the assessments against each parcel of property subject to assessment shall be prepared and filed in the office of the Clerk of Council and shall be open for inspection during regular business hours.

9. That Notice of the passage of this Resolution of Necessity and the filing of the estimated assessment pursuant to Ohio Revised Code Section 727.12 shall, after the estimated assessment has been made and filed as provided therein be served by the Clerk of Council, or a person designated by the clerk, upon the owners of the lots or parcels of land to be assessed for the Improvements, by certified mail addressed to such owner at his last known address or to the address to which tax bills are sent.

10. That the owner of any lot or parcel of land who objects to the amount or apportionment of, or the assessment against such lot or parcel as set forth in the estimated assessment filed under Ohio Revised Code Section 727.12, shall file such objection, in writing, with the Clerk of Council within two weeks from the date of completion of the notice required herein. Such objection shall include the address for mailing of the notice of the creation by the City of an Assessment Equalization Board pursuant to Ohio Revised Code Section 727.16.

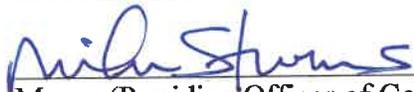
11. That an owner who fails to so file an objection shall be deemed to have waived any objection.

12. That this Council hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

13. That a copy of this Resolution shall be filed with the Montgomery County Auditor.

ADOPTED BY COUNCIL ON DECEMBER 1, 2022.

AUTHENTICATION:

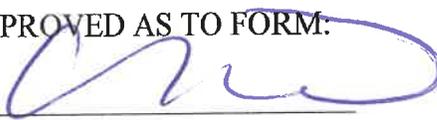


Mayor (Presiding Officer of Council)



Clerk of Council

APPROVED AS TO FORM:



Law Director

CERTIFICATION

State of Ohio, County of Montgomery, ss.

I, Barbara Seim, Clerk of Council of the City of Clayton, Ohio, do hereby certify that the foregoing is taken and copied from the Record of Proceedings of said City of Clayton, Ohio; that the same has been compared by me with the Resolution on said Record and that it is a true and correct copy thereof.

Witness my signature this 1st day of December, 2022.



Clerk of Council

CERTIFICATION OF PUBLICATION

This shall certify that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper Brookville Star Date of publication Dec 7, 2022


Clerk

Attachments:

- Petition
- Lot Map
- Assignment of House Numbers

**LIGHTING ASSESSMENT PETITION
(Wenger Village Section 3)**

CITY OF CLAYTON, OHIO

TO: THE COUNCIL OF THE CITY OF CLAYTON, OHIO

1. We, the undersigned owners of seventy-five (75%) percent or more of the parcels that abut the street or streets on which lighting improvements are being requested, do hereby petition the Council for the following public improvement:

Installation and maintenance of streetlights for the purpose of making our community more desirable, with such streetlights to be supplied power through a contract that will be funded with monies from the assessment:

Description: Please describe, as thoroughly as possible, the street or streets to be included in the assessment area. This should be accomplished by referring to cross streets, subdivision names, and specific address boundaries, so that an accurate accounting of affected parcels or lots can be attained.

The streets included with this project include only the sections of Marjoram Place, Cilantro Way and Parsly Place, found specifically in Section 3 of Wenger Village, more specifically all sections of these three streets located south of Corlander Trail.

Number of Affected Parcels: Please determine the number of affected parcels or lots that abut the street or streets on which light improvements are being requested. Also, provide any additional information that may be needed to properly understand or verify this accounting.

59 parcels

2. We, the undersigned, request that the entire cost of the lighting improvements be assessed equally amongst all abutting property owners as, regardless of the size of the individual lots, each property owner will equally benefit from the safety and aesthetic enhancement provided by the streetlights.

3. We, and each of us, further acknowledge and agree, in consideration of the installation and maintenance of the street light improvement, that no property, other than that which abuts the above-described streets, will receive special benefits from the improvements, and request that all assessments be limited to the parcels or lots that abut the street on which the improvement will be made.

4. In consideration of the improvement, we and each of us, agree to promptly pay all special assessments as they become due and that the determination of the special assessments by the Council against lots and lands owned by each of the undersigned will be final, conclusive and binding upon each of us.

5. We and each of us, consent and request that these special assessments be levied and collected without limitation as to the value of the property assessed, and waive the following:

(a) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code, or by any other provision restricting these special assessments to thirty three and one-third percent (33-1/3%) of the actual improved value of the lots and lands as enhanced by the improvements to be made;

(b) Any and all resolutions, ordinances and notices required for the making of the improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated costs and the passage of the assessing ordinance, including but not limited to, the notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code; and

(c) Any and all irregularities and defects in the proceedings.

6. We agree and consent to the submittal of petitions executed in duplicate counterparts all of which shall be considered as a single petition.

7. We, and each of us, further consent and request that all legislation required to be enacted to permit the improvements to commence immediately be enacted at a single Council meeting.

Collection and Submission of Signatures: In order for Council to consider this petition, all petitioners must provide their name, address, and signature, along with the parcel number or numbers of their property. Each owner of a particular property must sign in order for that parcel or lot to be included in the 75% calculation. Please number each individual entry.

<u>Name(s)</u>	<u>Address of Property</u>	<u>Parcel Number(s)</u>	<u>Signature</u>
	7912 - 7947 Parsley Place		
	7804 - 7843 Marjoram Place		
	7702 - 7739 Cilantro Way		

